



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

April 18, 1991

Mr. James B. Bond
Deputy Chancellor
and General Counsel
Office of General Counsel
300 System Administration Bldg.
The Texas A & M University System
College Station, Texas 77843-1116

OR91-203

Dear Mr. Bond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11718.

You indicate that you have received a request for:

[A]ll documents, writings, letters, memoranda and other printed typed, copied or developed materials relating to . . . [a]ny internal or external agency, group or individual's report or reports and related materials concerning possible, documented and alleged violations relating to the National Collegiate Athletic Association and Southwest Conference rules and regulations pertaining to the university's men's basketball team, its coaches, athletic department, boosters and others.

Your letter to us, dated February 18, 1991, suggests that this material is excepted from disclosure by sections 3(a)(1), 3(a)(11), 3(a)(14), and 14(e) of the Open Records Act. Your letter states that you "will provide [us] with examples of the material requested, as well as a brief in support of Texas A&M University's position

regarding information it believes to be excepted from public disclosure." To date, we have received no such information.

It is well established that a governmental body is required to establish how and why an exception applies to requested information. Open Records Decision Nos. 542 (1990); 532 (1989). Where a governmental body fails to furnish requested information to the attorney general, there is a presumption that the information is public. Open Records Decision No. 197 (1978). Although you may have requested a *decision* within the applicable 10-day deadline, your failure either to supply the requested information, *or* to demonstrate how the claimed exceptions apply, compels us to conclude that you have failed to meet your statutory obligation under section 7(a) of the act, especially in view of the length of time which has elapsed since your original request.

Nevertheless, because of the special nature of section 3(a)(1), the attorney general will raise that exception on behalf of a governmental body. Open Records Decision No. 481 (1987). Similarly, because the sections 3(a)(14) and 14(e) exceptions are derived from federal law, we will also address their applicability to the facts you present.

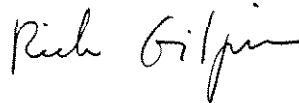
An almost identical situation to the one you pose was addressed in Open Records Decision No. 447 (1986). In that decision, this office held that letters to and from a state university to the National Collegiate Athletic Association (hereafter NCAA) are excepted by section 14(e) of the Open Records Act to the extent that they contain information directly related to a student. However, records which include charges that particular persons have violated NCAA rules, and the facts supporting those charges, are not excepted from disclosure by section 3(a)(14), section 14(e), or by common law privacy, with regard to state university employees, employees and students of out-of-state universities, or prospective students who never enrolled. Furthermore, no *Constitutional* privacy attaches to any information about alleged violations of NCAA rules. *Id.*

Our decision is, therefore, that you should withhold all requested information that relates to identifiable *students or former students* of Texas A&M University, to the extent that release of the information would identify particular students. The balance of the requested information must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with

a published open records decision. If you have questions about this ruling, please refer to OR91-203.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/lb

Ref.: ID# 11718

Enclosure: Open Records Decision Nos. 542 (1990); 532 (1989); 481 (1987);
447 (1986); 197 (1978).

cc: Mr. Todd Lighty
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